

Customer No. 25280

Case No. 3043A

"wherein said airbag cushion possesses an effective fabric weight factor of about 8.0 or less" in claim 15 are deemed indefinite. Applicant respectfully disagrees.

The word "about" is very widely used in patent claims. Although it may be indefinite in some cases, it is not deemed to be so in many patent applications, and Applicant submits that it is not indefinite here. (See, for example US 6,540,246 ("about three inches") which is one of 233 patents examined by L. Harris with the word "about" used in the claims.)

The phrase "at least about" was found indefinite where there was close prior art in Amgen Inc. v. Chugai Pharmaceutical Co. Ltd. (CA FC) 18 USPQ2d 1016: "When the meaning of claims is in doubt, especially when, as is the case here, there is close prior art, they are properly declared invalid. Standard Oil Co. v. American Cyanamid Co., 774 F.2d 448, 453, 227 USPQ 293, 297 (Fed. Cir. 1985)...In arriving at this conclusion, we caution that our holding that the term "about" renders indefinite claims 4 and 6 *should not be understood as ruling out any and all uses of this term in patent claims. It may be acceptable in appropriate fact situations, e.g., W.L. Gore & Assocs., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1557, 220 USPQ 303, 316 (Fed. Cir. 1983) ("use of 'stretching ... at a rate exceeding about 10% per second' in the claims is not indefinite"), *even though it is not here.* [Emphasis supplied.]

} problem -
here there
is close
prior art

It is also a dictionary word used here in its dictionary sense of "near to" and "approximately." Applicant submits that those of ordinary skill in the art understand that "about 8.0" means "near to" and "approximately 8.0" and would understand this phrase to mean within round off and measurement uncertainties to 8.0.

Customer No. 25280

Case No. 3043A

The word "effective" is not used in claim 15 alone but as part of the phrase "effective fabric weight factor," a phrase that is carefully defined and described in the specification (see page 7, line 10 through to page 8, line 23) as "the quotient of the total weight of fabric utilized in the construction of the airbag cushion and the available airspace volume." (Note that sometimes "index" is used in place of "factor" but the specification uses these synonyms to refer to the same ratio, as is abundantly clear from the context. See the title of Table 4 for example.) Applicant submits that far from being indefinite, the word "effective" in its proper context is actually mathematically precise.

not persuasive -
not a term of
art - Art.
Singh

Claims 19, 23 and 24 are cancelled, rendering their rejection under §112 moot.

Claim 13 stands rejected under 35 USC §102(b) as anticipated by Bunker et al. This rejection is respectfully traversed. Bunker teaches an airbag construction which is provided with an opening (no slit or notch) that receives the inflator. Bunker et al's opening is not "closed with a seam to create an offset" as in Applicant claims. Rather, Bunker's opening is kept open to receive the inflator and is not closed and creates no offset in the airbag. Bunker et al therefore does not anticipate Applicant's claimed invention.

Claims 15-19 and 22-26 stand rejected under 35 USC 103(a) as unpatentable over Bunker et al in view of Applicant's Admitted Prior Art (AAPA). This rejection is respectfully traversed in view of the amendment to claim 15. The comments above regarding the Bunker et al rejection of claim 13 apply to claim 15. Bunker et al does not close opening 36 with a seam, as claimed. Nor would it be obvious to

Customer No. 25280

Case No. 3043A

close Bunker's opening 36 with a seam or how a frangible wrap 56 would form an offset in the airbag cushion.

Applicant respectfully acknowledges that claim 14 was not rejected under art. — inadvertent

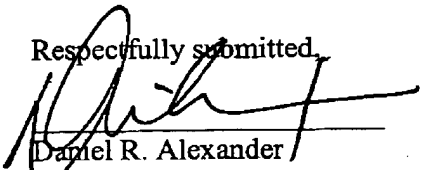
In view of the foregoing amendments and remarks, Applicant believes that at least claims 13 – 18, 22, 25 and 26 are in condition for allowance. An action to that effect is requested.

Should any matter of form stand in the way of allowance, the Examiner is respectfully requested to contact the undersigned at the telephone number provided below.

Please charge any deficiency in fees or credit any overpayment in connection with this Amendment to Deposit Account 04-0500.

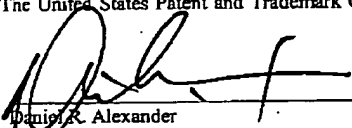
Date: April 7, 2003

Respectfully submitted,


Daniel R. Alexander
Registration Number 32604
Patent Counsel
Milliken & Company – M495
P O Box 1927
Spartanburg, SC 29304
864-503-1372

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being transmitted to The United States Patent and Trademark Office at 703-872-9326 on April 7, 2003.


Daniel R. Alexander
Attorney for Applicant(s)

Customer No. 25280

Case No. 3043A

CURRENT STATUS OF CLAIMS OF 09/899,324

- Sub Bg*
1. (Withdrawn) A passenger top mount airbag cushion having at least one fabric component, having an offset created by closing a slit, notch or opening therein, and wherein said airbag cushion possesses an effective fabric usage factor of less than about 0.0260.
 2. (Withdrawn) The passenger top mount airbag cushion of claim 1 wherein said airbag possesses an effective fabric usage factor of less than about 0.020.
 3. (Withdrawn) The passenger top mount airbag cushion of Claim 1 wherein said airbag cushion is made from at least two fabric panels
 4. (Withdrawn) The passenger top mount airbag cushion of Claim 3 wherein said airbag cushion is made by connecting said panels with substantially straight seams.
 5. (Withdrawn) The passenger top mount airbag cushion of Claim 4 wherein said airbag cushion has a fabric utilization of at least 90%.
 6. (Withdrawn) The passenger top mount airbag cushion of Claim 1 wherein said airbag cushion comprises a looped pocket into which an inflator can may be disposed.

Customer No. 25280

Case No. 3043A

- Bg
7. (Withdrawn) The passenger top mount airbag cushion of Claim 1 wherein said airbag cushion further comprises plastic rods at the mouth.
8. (Withdrawn) The passenger top mount airbag cushion of Claim 1 wherein said airbag cushion comprises at least two fabric components connected by at least one seam.
9. (Withdrawn) The passenger top mount airbag cushion of claim 1, wherein said airbag cushion has about a 50% reduction in total seams over a conventional top mount cushion.
10. (Withdrawn) The passenger top mount airbag cushion of claim 1, wherein said airbag cushion has about a 40% reduction in fabric usage over a conventional top mount cushion.
11. (Withdrawn) In a vehicle restraint system, the improvement comprising the airbag cushion of Claim 1.
12. (Withdrawn) A vehicle restraint system comprising the airbag cushion of Claim 1.
13. (Original) In a method of forming an airbag cushion, the improvement comprising the steps of cutting at least one slit, notch or opening in the fabric of the main panel and closing the slit notch, or opening with a seam to create an offset.
- RB

Customer No. 25280

Case No. 3043A

14. (Original) An ~~airbag~~ cushion formed by the method of claim 13.

Sub B8) 15. (Amended) A passenger top mount airbag cushion having at least one fabric component, having an offset created by closing a slit, notch or opening with a seam, and wherein said airbag cushion possesses an effective fabric weight factor of about 8.0 or less.

16. (Original) The passenger top mount airbag cushion of claim 15, wherein said airbag cushion possesses an effective fabric weight factor of about 3.0 or less.

17. (Original) The passenger top mount airbag cushion of Claim 15 wherein said airbag cushion is made from at least two fabric panels.

18. (Original) The passenger top mount airbag cushion of Claim 17 wherein said airbag cushion is made by connecting said panels with substantially straight seams.

19. (Cancelled) The passenger top mount airbag cushion of Claim 18 wherein said airbag cushion has a fabric utilization of at least 90%.

Sub B8) 20. (Withdrawn) The passenger top mount airbag cushion of Claim 15 wherein said airbag cushion comprises a looped pocket into which an inflator can may be disposed.

Customer No. 25280

Case No. 3043A

Bg 21. ~~(Withdrawn)~~ The passenger top mount airbag cushion of Claim 15 wherein said airbag cushion further comprises plastic-rods at the mouth.

22. ~~(Original)~~ The passenger top mount airbag cushion of Claim 15 wherein said airbag cushion comprises at least two fabric components connected by at least one seam.

GA 23. ~~(Cancelled)~~ The passenger top mount airbag cushion of claim 15, wherein said airbag cushion has about a 50% reduction in total seams over a conventional top mount cushion.

24. ~~(Cancelled)~~ The passenger top mount airbag cushion of claim 15, wherein said airbag cushion has about a 40% reduction in fabric usage over a conventional top mount cushion.

Sub Bg 25. ~~(Original)~~ In a vehicle restraint system, the improvement comprising the airbag cushion of Claim 15.

26. ~~(Original)~~ A vehicle restraint system comprising the airbag cushion of Claim 15.